

## 10. LOCAL GOVERNMENT OMBUDSMAN COMPLAINT (C355/JRS)

### Purpose of the report

1. This report informs Members of the findings of the micro-scrutiny panel which was appointed following the consideration by the ARP committee of a complaint which has been dealt with by the Local Government Ombudsman in respect of a case in Rowsley. The matter was considered by the Audit Resources and Performance Committee on 6 November 2015. At that meeting it was agreed that at this stage a short report would be provided for Planning Committee (January 2016), but that a micro-scrutiny review panel be set up to consider the lessons to be learned from this case. The micro-scrutiny panel comprised the following Members:
  - Chair of Audit, Resources and Performance (Cllr Andrew McCloy)
  - Vice Chair of Audit, Resources and Performance (Cllr Chris Furness)
  - Chair of Planning (Paul Ancell)
  - Emma Sayer
  - One other Member of the Planning Committee

The Chair of Planning approached Cllr Caroline Howe to fill this last place and she agreed. The Panel met on 8 January. They visited the site so that they could understand the background to the case. They were assisted by the appropriate officers, including the Director of Conservation and Planning. The Panel met and reviewed the lessons to be learned from this case by considering the practicalities and process of consulting on planning applications and judging the impact of developments on neighbours.

### Recommendations:

2.
  1. **That the findings of the report and recommendations be noted and adopted, as follows:**
    - i. **Planning officers to make a written log of all site visits and include photos.**
    - ii. **Planning officers to erect the yellow site notices and consider the best position for this.**
    - iii. **Planning officers to take a photo of the yellow site notice when erected.**
    - iv. **Planning officers to consider if any neighbouring properties need to be notified by letter and deliver these whilst on site or ensure admin staff send letter on return to office.**
    - v. **Administrative support staff to be given discretion to widen the 10m area if appropriate when preparing neighbour notifications.**
    - vi. **Planning officers need to recognise they are the backstop and use their judgement on site.**
    - vii. **Planning officers reports on applications (delegated and Planning Committee) need to be clear and concise with regard to neighbour notification and impact on neighbouring properties.**
  2. **That the Members of the Panel be thanked for their engagement in the micro-scrutiny process.**

### How does this contribute to our policies and legal obligations?

3. The Authority's complaint procedures state: 'We aim to deliver high quality and efficient services. We are always trying to do better and welcome your feedback. It is important because it helps us build on strengths and learn from mistakes. If things go

wrong we want to rectify the problem as fairly and quickly as possible'. In our transitional year 2015/16 learning from complaints received will contribute to one of our four cornerstones: 'Our organisation – develop our organisation so we have a planned and sustained approach to performance at all levels (people, money, outputs)'. After exhausting the Authority's procedures a member of the public can complain to the Local Government Ombudsman as a final step.

## Background

4. The Authority's agreed procedure for micro-scrutiny includes the following main steps:
  - Members in a meeting of the Authority or a Committee agree to a micro-scrutiny along with reasons for requesting it. The Members to be on the micro-scrutiny team are identified.
  - The Terms of Reference for the micro-scrutiny are agreed.
  - A Management Team lead officer is identified to be the link with the micro-scrutiny team, and to arrange meetings with staff who the team wishes to meet.
  - The findings and recommendations of the micro-scrutiny team are incorporated by the management team lead officer into a report to Audit, Resources & Performance Committee. The report should also cover proposed actions.

In this case the Ombudsman's investigator had concluded that there had been fault by the Authority due to the failure of the Authority to consider material planning considerations, apply its own planning policies or consider separation distances and the overbearing impact on a neighbouring property when granting planning permission for an extension. The concerns of the complainant initially arose through a failure to consult him directly on an application for an extension to the neighbouring property in 2012. The application was publicised through a standard yellow site notice, and some neighbours were consulted by letter, but the complainant was not directly consulted.

5. At the meeting of the panel on 8 January the Director of Conservation and Planning Authority's explained the current policy on notifying neighbours of planning applications, as set out in the Statement of Community Involvement (2012) in the consultation on planning applications section. He also tabled details of the neighbour notification policies of other National Park Authorities and 3 Constituent Authorities. He also explained that administrative support officers who prepare and circulate neighbour notification letters also occasionally use their judgement to include properties outside the 10m area as necessary. Planning officers going on site have details with them of properties notified (on the cover sheet of the application file) and can identify extra ones who should be notified.

The Panel agreed that site visits were important as a means of judging impact on neighbours and who to notify. They agreed that a written log of all site visits should be made, including photos. It was also important to consider where the site notice was placed.

6. Having reviewed the case, the Micro Scrutiny Review Panel agreed the following action points:
  - i. Planning officers to make a written log of all site visits and include photographs.

Officer comment: Planning Officers usually take photographs of all sites when they visit the site during the application process. The photographs are uploaded to the "Hub", which has both an internal and a public face; the photographs are usually on the public pages (PAM). Any notes are usually made on the front cover of the file or in electronic file notes – only the latter would be saved to the system once the application has been determined, so any significant notes need to be made and stored

electronically.

- ii. Planning officers to erect the yellow site notices and consider the best position for this.

Officer comment: Planning Officers usually erect the site notice on or close to the application site and usually try to identify the best location for this (in terms of public visibility). They also erect more than one notice if appropriate (where the development is significant or where there is more than one public access or face to the development, for example). They now always take photographs of the site notice once it has been erected as a record of the time and place. This was previously a common practice rather than a universal practice, but it is now universal for those applications where a site notice is put in place. An important point to note is that the date that a yellow notice has been placed on or near the site is recorded on M3, the Authority's electronic planning database, so it is possible to check that this was done if this is ever questioned.

- iii. Planning officers to consider if any neighbouring properties need to be notified by letter and deliver these whilst on site or to ensure that administrative support staff send letters on their return to office.

Officer comment: Planning Officers already do this, but the practice needs to be supported and reinforced.

- iv. Admin staff to be given discretion to widen the 10m area if appropriate when preparing neighbour notifications.

Officer comment: Again, administrative support officers already do this but the practice needs to be supported and reinforced. However, it is important to recognise that this is usually a site specific judgement so it is best made by the Planning Officer.

- v. Planning officers need to recognise they are the backstop. Again, it is essential that Planning Officers understand that the assessment of the potential impact on neighbours is a planning judgement which is best made on site.

Officer comment: Noted. This is a key learning point for the Planning Service.

- vi. Planning officers reports on applications (delegated and Planning Committee) need to be clear and concise with regard to neighbour notification and impact on neighbouring properties.

Officer comment: Noted. This is a key learning point for the Planning Service. It is essential that both delegated and Planning Committee report specifically refer to the issue of potential impact any neighbouring properties. This is an important responsibility for the Planning Officer writing the report and for the manager signing it off. Planning Officers have already been reminded that reports should include a proper written assessment of the potential impacts on the amenities of neighbouring properties and justify their conclusions with reference to the SPD on alterations and extensions where appropriate.

7. All Planning Service staff have been briefed by the Director of Planning to confirm these "lessons learned".

**Are there any corporate implications members should be concerned about?**

8. **Financial:** There are no specific financial issues arising from this report. Any resource

implications that might arise from the proposed actions would be considered by Resource Management Team.

9. **Risk Management:** The proposed measures will help to avoid future justifiable complaints about neighbour notification and publicity of applications.
10. **Sustainability:** The introduction of more effective and efficient ways of working will increase the sustainability of the Planning Service delivery.
11. **Background papers:** (not previously published) – Local Government Ombudsman's decision dated 19 October 2015.
13. **Appendices:** Extract from Statement of Community Involvement June 2012
14. **Report Author, Job Title and Publication Date**

John Scott, Director of Conservation and Planning, 25 February 2016